

April 10, 2013

Senate Committee
Senate Rural and Regional Affairs and Transport Legislation Committee
PO Box 6100
Australian Parliament House
Canberra, ACT 2600



Dear Committee

Re: Australia Council Bill 2013

Kultour, recognised by the Australia Council for the arts as the peak national advocacy body for cultural diversity in the arts in Australia, wishes to draw your attention to some aspects of the Australia Council Bill 2013, which are of concern to our organisation and the national member network we represent.

Australia is one of the most multicultural nations on earth. Since 1945, 7 Million people have migrated to Australia. Today:

- One in four Australians were born overseas;
- 4 Million Australians speak a language other than English;
- Over 260 languages are spoken at home; and
- Australians identify with more than 270 ancestries.

Australia's uniquely diverse culture is arguably its most defining characteristic and yet this new legislation fails to provide for the inclusion and participation of all cultures in the arts.

Kultour is concerned that without amendment to the legislation in its current form, it does not fully support the implementation of *Creative Australia National Cultural Policy* ('*Creative Australia*').

Functions removed from the Australia Council 1975 Act

1. **Excellence in the Arts:** The 2013 Bill removes the following function specified in the 1975 Act that the Australia Council *promote excellence in the arts*. A new function in the 2013 Bill seemingly replaces this in that the Australia Council *support Australian arts practice that is recognised for excellence*.

Creative Australia states that pursuing a shared vision of fostering artistic excellence, facilitating community engagement and commercial opportunities will be a priority.¹ The new function seems to be restricted to supporting arts practice that is recognised for excellence only, instead of encouraging the development of artistic excellence in the arts where all Australians have the opportunity to be involved with the arts as creators as well as audiences².

Kultour would argue that the legislation should provide acknowledgement of and provide scope to encompass new and innovation art forms yet to appear, and allow for the creation of that which has, as yet, no audience and may indeed, by its emergent nature, be entirely experimental.

2. **Opportunities for persons to practice the arts:** The 2013 Bill removes the following function specified in the 1975 Act that the Australia Council *provide and encourage the provision of opportunities for persons to practice the arts*. With no mention of providing or encouraging, the provision of opportunities for persons to practice the arts the Australia Council has no responsibility for this.

¹ Creative Australia, pg.10

² Creative Australia, pg.31

- 3. Arts in the Community:** The 2013 Bill removes the following function specified in the 1975 Act that the Australia Council *promote the general application of the arts in the community*. With no mention of ‘the community’ in the new Bill, the Australia Council has no responsibility for arts in the community.

Creative Australia states that our responsibilities as a nation is to ensure that Australian citizens have opportunities to express their cultural identity and to enjoy, draw inspiration from and co-create their culture.³ It also states that culture is not created by government, but enabled by it. *Culture is created by community*.⁴

Kultour is concerned that the word ‘community’ is not mentioned in the 2013 Bill.

- 4. Cultural Identity:** The 2013 Bill removes the following function specified in the 1975 Act that the Australia Council *foster the expression of a national identity by means of the arts*. With no mention of ‘national or cultural identity’ or ‘culture’ in the new Bill, the Australia Council will have no responsibility for national or cultural identity or culture, which is in stark contrast to *Creative Australia*, which promotes a SHARED NATIONAL IDENTITY⁵.

Creative Australia aims to ensure that ‘Australian identity and stories are not swamped in a globe awash with cultural products, that the full diversity of our society is represented.’⁶

It is of significant concern to Kultour that the 2013 Bill does not embed this function into the work of the Australia Council, despite: an existing agreement between the Australia Council and the United Nations to promote cultural diversity across the Asia Pacific, announced 1 November 2012;⁷ or that one in every four Australians was born overseas.

Creative Australia also states that the opportunity for expression must encompass diversity in its widest possible form – including all people, no matter where they live, whatever their background or circumstances.⁸ As well as recognition that Modern Australia celebrates its practitioners in all their diversity because, we recognise strength in that diversity.⁹

Kultour calls on the Australian Government to embed cultural diversity into the new legislation, providing a clear mandate for the Australia Council for the Arts to promote and support excellence across culturally diverse arts and arts practice. It would also support organisations like Kultour to have a clear existence within the arts and the Australia Council’s mandate.

- 5. Freedom in the Practice of the Arts:** The 2013 Bill removes the following function specified in the 1975 Act that the Australia Council *to uphold and promote the rights of persons to freedom in the practice of the arts*. With no mention of ‘the freedom in practice of the arts’ in the 2013 Bill, the Australia Council will have no responsibility to uphold, protect or promote freedom of artistic expression.

Creative Australia states that the full diversity of our society is represented and that citizens have opportunities to be both creators and audiences.¹⁰ Kultour regards this omission of serious consequence.

³ Creative Australia pg.29

⁴ Creative Australia pg.9

⁵ Creative Australia pg.8

⁶ Creative Australia pg.43

⁷ <http://www.australiacouncil.gov.au/news/items/2012/unesco-australia-council-mou>

⁸ Creative Australia p.29

⁹ Creative Australia pg. 69

¹⁰ Creative Australia pg.43

Functions in the 2013 Bill

- 1. Markets and Audiences for the arts:** The 2013 Bill states that a new function of the Australia Council is *to support and promote the development of markets and audiences for the arts*. This is an important and desirable function, however, it should not be an exclusive role for the Australia Council and neither should economic drivers drive it. Artists and arts organisations are also capable of developing these and the role for the Australia Council in this space should be to foster and promote active participation in the creation and presentation of art. This will also foster the development of new markets and audiences.
- 2. Research:** The 2013 Bill states that a new function of the Australia Council is *to conduct and commission research into, and publish information about the arts*. Kultour applauds the inclusion of this new function and encourages greater research into cultural diversity in the arts in Australia.

Functions not included in the 1975 Act needing inclusion in the 2013 Bill

- 1. Recognition of Australian Aboriginal and Torres Strait Islander Cultures:** In the 2013, Bill there is no mention of Aboriginal and Torres Strait Islander culture and its importance in Australia's heritage and identity. *Creative Australia* Goal One is to 'Recognise, respect and celebrate the centrality of Aboriginal and Torres Strait Islander cultures and to the uniqueness of Australian identity.'¹¹ With no mention of this in the 2013, Bill the Australia Council is perhaps enabled but certainly not obliged to uphold this policy goal.
- 2. Cultural Diversity in the Arts:** In the 2013, Bill there is no mention of cultural diversity or culturally and linguistically diverse arts, artists or communities and its importance to a shared national identity. *Creative Australia* states that the opportunity for expression must encompass diversity in its widest possible form – including all people, no matter where they live, whatever their background or circumstances.¹² As well as recognition that Modern Australia celebrates its practitioners in all their diversity because, we recognise strength in that diversity.¹³
- 3. People with Disabilities:** In the 2013, Bill there is no mention of arts, artists or communities of people with disabilities in the arts and their importance to a shared national identity. *Creative Australia* states that the full diversity of our society is represented and that citizens have opportunities to be both creators and audiences.¹⁴ *Creative Australia* also states that the opportunity for expression must encompass diversity in its widest possible form – including all people, no matter where they live, whatever their background or circumstances.¹⁵ As well as recognition that Modern Australia celebrates its practitioners in all their diversity because, we recognise strength in that diversity.¹⁶

¹¹ Creative Australia pg.6

¹² Creative Australia p.29

¹³ Creative Australia pg. 69

¹⁴ Creative Australia pg.43

¹⁵ Creative Australia p.29

¹⁶ Creative Australia pg. 69

Kultour calls on the Australian Government to amend the 2013 Bill and include new functions as stated:

- a) To recognise, respect, celebrate and support Australian Aboriginal and Torres Strait Islander cultures in the arts;
- b) To promote and support the inclusion and participation of all cultures in the arts, thereby recognising Australia's unique diverse culture ; and
- c) To promote and support the inclusion and participation of people with disabilities in the arts.

The People of Australia policy states: *The Australian Government is unwavering in its commitment to a multicultural Australia. Australia's multicultural composition is at the heart of our national identity and is intrinsic to our history and character. Australia's recognition of diversity of cultural life has been well established; it encourages citizens to lead a culturally meaningful life, open to freely express, experience and celebrate their cultural heritage.*

Our identity is also enriched by millions of people from diverse cultures around the world.¹⁷ Culture is more than the arts, but the arts play a unique and central role in its development and expression.

The above-mentioned omissions in the 2013 Bill are at odds with *Creative Australia*. Under the proposed legislation, there is no obligation for the Australia Council to find ways to translate the goals and values of *Creative Australia* into action.

Why legislative obligations are imperative?

Cultural rights are at risk if the rights of citizens to cultural expression and engagement through art are not enshrined in legislation, it is critical that cultural diversity is enshrined in legislation.

Australia's cultural diversity is central to our nation, with Aboriginal and Torres Strait Islander culture at the heart. The new legislation needs to reflect this or the Australia Council will have no responsibility for leading or supporting: the provision of opportunities for persons to practice the arts; arts in the community; a national identity which recognises and supports Australia's cultural diversity and welcomes the participation by all cultures in the arts; and the freedom of the practice of arts.

It is critical that these fundamental cultural human right aspects be enshrined in the legislation, not at risk of debate.

In order to understand Australia's position in the world, we must first understand the world within Australia. Arts and cultural engagement plays an integral role in citizen's participation in the community. It is critical that our policies, legislation, arts, and creative industries reflect the culturally diverse make-up of our country and embrace these complexities as a catalyst for creativity, innovation and excellence.

These recommendations for amendments to the 2013 Bill will strengthen and ensure greater support and clarity to the Nation in achieving the vision and goals of Creative Australia.

Yours sincerely

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Chief Executive Officer, Kultour

¹⁷ Creative Australia pg. 8